

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

SCOTT D. MICHALESKO, :

Plaintiff : CIVIL ACTION NO. 3:13-2634

v. : (MANNION, D.J.)

FREELAND BOROUGH, et al., :

Defendants :

ORDER

For the reasons articulated in the court's memorandum issued this same day, **IT IS HEREBY ORDERED THAT:**

- (1) The defendants' motion to dismiss, (Doc. 14), is **GRANTED IN PART** and **DENIED IN PART**;
- (2) The plaintiff's claims arising under 42 U.S.C. §1983 for due process and first amendment violations (Counts I & II) will proceed against Freeland Borough;
- (3) The plaintiff's claim of first amendment retaliation (Count II) against the individually named defendants, Robert Quinn, John Budda, John Potoskie, Rick Wenner, Barbara Tulanowski, Joseph Palko, Jr., and Daniel Bobby, will proceed;
- (4) The plaintiff's due process claim (Count I) against those same individually named defendants is **DISMISSED WITH PREJUDICE** as they are entitled to qualified immunity;
- (5) The plaintiff's claims arising under the Americans with Disabilities

Act and the Pennsylvania Human Relations Act (Counts III & IV)
are **DISMISSED WITH PREJUDICE** as to all the defendants.

s/ *Malachy E. Mannion*
MALACHY E. MANNION
United States District Judge

Date: April 29, 2014

O:\Mannion\shared\MEMORANDA - DJ\CIVIL MEMORANDA\2013 MEMORANDA\13-2634-01-ORDER.wpd